

1 the aspects of the motion we filed, and I think it's a lot for
2 the Court to have to deal with, quite frankly, and I know the
3 Court is going to try and do the best it can with the
4 situation, but I don't think it's tenable and -- I don't ask
5 for mistrials easily, I have probably asked for four in my
6 entire career, I don't see a way out of this problem.

7 (Pause.)

8 THE COURT: All right, I'm going to deny the
9 defendant's motion for a mistrial. Any issues caused by a
10 witness referring to certain individuals by their first name
11 only and by asking the Government if they may use last names
12 of certain other individuals can be cured by a jury
13 instruction, which I will give. Going forward, the Government
14 shall provide the defendant and each witness, including the
15 current witness, with a list of the individuals whose identity
16 should be protected from the public and the press, that way
17 each witness can refer to the list rather than asking the
18 Government whether a particular individual's identity is
19 protected.

20 You don't have a proposed jury instruction.

21 MS. PENZA: Not yet, Your Honor.

22 THE COURT: I have one.

23 To the jurors: You may have noticed during
24 yesterday's testimony that the witness used first names of
25 certain individuals. That is because the names of certain

Proceedings

246

1 alleged victims are being withheld from the public and the
2 press to protect the privacy of those individuals. I have
3 therefore instructed the parties to refer to those individuals
4 by their first names only; however, those full names are known
5 to the Government, the defendant, and to the Court.

6 You may also have noticed that the witness was
7 asking the Government whether she should say the last names of
8 certain individuals. Going forward, the witnesses will
9 receive a list of the individuals whose last names are to be
10 protected to which they may refer while testifying.

11 Anything else you want me to put in there?

12 MS. PENZA: Not from the Government Your Honor.

13 THE COURT: You object?

14 MR. AGNIFILO: I do, Judge.

15 THE COURT: Your objection is noted.

16 Also, I'm going to direct that the parties shall not
17 make any speaking objections. If the basis for an objection
18 is not apparent, the parties may request a sidebar.

19 MR. AGNIFILO: Very good. Thank you, Judge.

20 THE COURT: Okay, what else?

21 MS. PENZA: Nothing else from the Government, but we
22 would just ask for five minutes to make sure that the list is
23 correct for the current witness.

24 THE COURT: All right, we'll take a five-minute
25 break.